THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NOs: 26186 and 26883 of 1995

Dated: 31-10-2006

Between:

S.A. Ramaiah

..... PETITIONER

AND

The District Collector,
Kadapa and four others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NOs: 26186 and 26883 of 1995

O R D E R:

These two writ petitions are filed with a common prayer to declare the alleged inaction on the part of the respondents in taking steps to clear the alleged encroachments on the land belonging to Primary Health Centre, Mydukur admeasuring Ac.1.43 cents in Sy.No.1848/1 and Ac.0.67 cents in Sy.No.1847/2 of Mydukur, Kadapa District as arbitrary and illegal.

The petitioner in W.P.No.26186 of 1995 is the Ex-Sarpanch of Mydukur Gram Panchayat. The petitioners in W.P.No.26883 of 1995, who are five in number, claim to be the residents of Mydukur village.

It is stated that on a request made by the residents of Mydukuru-a major Gram Panchayat with 70,000 population, it was resolved by the Mydukuru Gram Panchayat on 9-3-1985 to construct a Primary Health Center on Ac.2.10 cents of land situated in Sy.Nos. 1847 and 1848/1, which was agreed to be donated in favour of the District Medical and Health Officer, Kadapa. Accordingly, the land was handed over to the second respondent on 30-01-1988 by the Mandal Revenue Officer, Mydukuru Mandal and the construction was also commenced. While the construction was in progress, the second respondent initiated steps for removal of certain encroachers so as to utilize the entire land allotted for the construction of Primary Health Center. However, at the instance of the local political leaders, pattas were granted in favour of the encroachers in respect of the land in

their occupation in spite of the protest by the residents of the village. Hence, these writ petitions contending that the inaction on the part of the respondents 1 and 3 in taking steps to cancel all the pattas so granted and to complete the construction of the Primary Health Center is arbitrary and illegal.

This Court while directing Rule Nisi, stayed any constructions by the encroachers in the land allotted for establishment of Primary Health Center.

The 5th respondent - Indira Mahila Mandal, which had allegedly encroached upon the land in question filed a counter affidavit denying the allegations made in the writ petitions and stating that the house site pattas were granted by the Revenue Divisional Officer, Jammalamadugu on the basis of the personal inspections and verifications. It is further stated that by proceedings dated 02-05-1994 the District Collector directed the Mandal Revenue Officer to delete the encroached area in Sy.No.1848/1 from the land handed over to the Medical and Health Department and to grant house site pattas to the eligible encroachers as resolved by the Mandal Assignment Committee. Accordingly, the Mandal Revenue Officer, Mydukuru had granted D-Form pattas to the members of the 5th respondent-Association on 26-05-1994. It is further stated that they filed a separate writ petition being W.P.No.24885 of 1995 aggrieved by the action of the Mandal Revenue Officer in obstructing the construction of houses and pursuant to the interim orders granted, they have completed the construction of houses.

The Mandal Revenue Officer, Mydukuru also filed separate counter affidavits stating that about 20 beneficiaries were granted house site pattas in Sy.No.1848/3 to an extent of Ac.0.89 cents after effecting the sub-division out of Sy.No.1848/1. Pursuant thereto, the beneficiaries having obtained the administrative sanction and having availed the loan from A.P. Housing Corporation Limited commenced the construction of houses.

I have heard the learned Counsel for both the parties.

From the material on record, it is clear that the members of the 5th respondent-association were validly granted house site pattas in Sy.No. 1848/3 and they have also completed construction of houses by virtue of the interim orders granted by this Court in W.P.No.24885 of 1995. It is relevant to note that subsequently W.P.No.24885 of 1995 was disposed of by this Court by order dated 19-03-2004 holding that no further orders are necessary in view of the interim order dated 06-11-1995. The material on record also shows that whereas the Primary Health Center is situated in Sy.No.1848/1 and 1847/2, the houses were constructed by the members of the 5th respondent-association in Sy.No.1848/3 which was sub-divided from Sy.No.1848/1.

In the circumstances *Mandamus* as prayed for cannot be granted.

Accordingly, the writ petitions are dismissed. No costs.

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G. ROHINI, J

Dated: 31-10-2006
KLP